



OFFICE *of the* ATTORNEY GENERAL
GREG ABBOTT

July 23, 2003

Ms. Nancy Fisher
Legislative Director
Texas House of Representatives
Office of the Speaker
P.O. Box 2910
Austin, Texas 78768-2910

OR2003-5086

Dear Ms. Fisher:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 183894.

The Office of the Speaker of the Texas House of Representatives (the "Speaker's Office") received a request for all Texas congressional redistricting maps submitted "for the purpose of redrawing the congressional district boundaries," including "any demographic, political party percentages, voting age populations or any and all other statistical information that accompanies the maps and any accompanying analysis." The requestor also asks for the names and salaries of the staff who is working on this matter. The Speaker's Office has provided the staff information but asserts that the remaining requested information is excepted from public disclosure under section 552.106 of the Government Code. We have considered the exception claimed and reviewed the submitted information.

Section 552.106(a) of the Government Code protects a draft or working paper involved in the preparation of proposed legislation. Section 552.106 excepts from public disclosure policy judgments, recommendations, and proposals involved in the preparation of proposed legislation. Open Records Decision No. 460 (1987). The purpose of the exception is similar to that of section 552.111: to encourage frank discussion on policy matters between the subordinates or advisors of a legislative body and the legislative body; it protects the internal "deliberative" or policy-making processes of a governmental body. *Id.* Having reviewed the submitted information, we agree that it is a draft or working paper used in the preparation of proposed legislation and reflects advice, opinion, and recommendation relating to the

policymaking process. Thus, the submitted information may be withheld from disclosure under section 552.106(a). However, because section 552.106 is a discretionary exception that protects a governmental body's interest rather than making the information confidential, *the Speaker's Office has the discretion to release the information.*

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

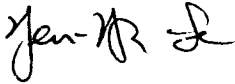
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "Yen-Ha Le".

Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/sdk

Ref: ID# 183894

Enc. Submitted document

c: Ms. Suzanne Gamboa
Associated Press
Texas Regional Writer
2021 K Street, N.W.
Washington, D.C. 20006
(w/o enclosure)